

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

TERRANCE LAVELL KIRKSEY,

Plaintiff,

v.

OFFICER THORNE,

Defendant.

Case No. 19-CV-1310-JPS

ORDER

Plaintiff Terrance Lavell Kirksey, a prisoner proceeding in this matter *pro se*, filed a complaint alleging that Defendant violated his constitutional rights. (Docket #1). Both parties moved for summary judgment. (Docket #14, #20). The Court granted Defendant's motion for summary judgment on March 26, 2021. (Docket #56, #57). Specifically, the Court held that Plaintiff had failed to exhaust his administrative remedies and dismissed the case without prejudice. (*Id.*) On April 14, 2021, Plaintiff filed a motion for reconsideration under Federal Rule of Civil Procedure 59(e), ("Rule 59(e)"). (Docket #58).

Rule 59(e) permits a party to ask for alteration or amendment of a judgment within twenty-eight days of the judgment's issuance. Fed. R. Civ. P. 59(e). Plaintiff's motion was timely filed, and so the Court may consider its merits. Nevertheless, the standard that Plaintiff must meet to have his motion granted is steep. A Rule 59(e) motion may be granted only where the movant clearly establishes: "(1) that the court committed a manifest error of law or fact, or (2) that newly discovered evidence precluded entry of judgment." *Cincinnati Life Ins. Co. v. Beyrer*, 722 F.3d 939, 954 (7th Cir. 2013); *Barrington Music Prods., Inc. v. Music & Arts Ctr.*, 924 F.3d 966, 968

(7th Cir. 2019); *Cehovic-Dixneuf v. Wong*, 895 F.3d 927, 932 (7th Cir. 2018) (“District courts need not grant Rule 59(e) motions to advance arguments or theories that could and should have been made *before* the district court rendered a judgment.”) (emphasis added) (internal quotation omitted).

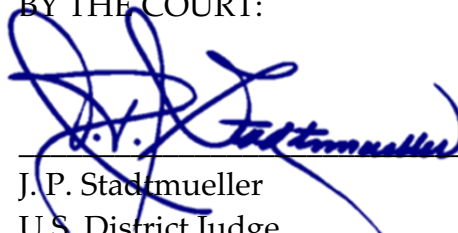
Plaintiff’s arguments are merely the same ones he made in his summary judgment briefings. Plaintiff has not provided any arguments or explanations as to what manifest errors of law the Court made in granting Defendant’s motion for summary judgment. Additionally, Plaintiff has not provided any new evidence that would preclude entry of judgment in this case. In sum, Plaintiff is disappointed and disagrees with this Court’s decision and judgment. However, his disagreement is not enough to warrant relief under Rule 59(e). Plaintiff’s motion must be denied.

Accordingly,

IT IS ORDERED that Plaintiff’s motion for reconsideration (Docket #58) be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 10th day of May, 2021.

BY THE COURT:



J. P. Stadtmueller
U.S. District Judge